Guidelines for Local Agency Military Base Recovery Area Tax Incentives

General Information

Local Agency Military Base Recovery Areas (LAMBRAs) have been established to stimulate growth and development in areas that experience military base closures.

The LAMBRA provides four business-related tax incentives that are explained in this publication:

1. Credit for hiring qualified employees;
2. Credit for sales or use tax paid or incurred on qualified property;
3. Business expense deduction for the cost of qualified property; and
4. Net operating loss carryover.

This guide briefly explains the four business-related tax incentives to help investors and business operators understand the potential financial impact of each incentive and what must be done to take advantage of them. Detailed information about the methods used to compute allowable tax savings is explained in FTB 3807, Local Agency Military Base Recovery Area Booklet.

LAMBRA tax incentives apply only to investments and business activities that are undertaken **after** a LAMBRA has received final designation.

In order to qualify for the LAMBRA tax incentives, a business must have a net increase of one or more jobs within the first two taxable or income years of commencing business within the LAMBRA. See the Qualified Taxpayer Defined Section on pages 3 and 4 for additional information.

Geographic Boundaries

Any information about geographic boundaries of a LAMBRA, dates of designation, Form TCA EZ1 (Enterprise Zone and LAMBRA Hiring Voucher) or other information not related to the tax incentives is available from:

ATTN ENTERPRISE ZONE PROGRAMS
CA TRADE AND COMMERCE AGENCY
801 K STREET SUITE 1700
SACRAMENTO CA 95814
Telephone: 916-324-8211
FAX: 916-322-7214

Hiring Credit

A qualified business may reduce tax by a percentage of wages paid to one or more qualified employees.

For an employer claiming this credit, a qualified employee is anyone who is hired after the area is designated as a LAMBRA and is:

- A civilian or military employee of a base or former base who has been displaced as a result of a federal base closure act;
- Certified at the time of hire as:
  1. Receiving or eligible to receive subsidized employment, training or services under the terms of the federal Job Training Partnership Act (JTPA);
  2. Registered under the Greater Avenues for Independence Act (GAIN); or
  3. Eligible under the federal Targeted Jobs Tax Credit Program, whether or not this program is in effect.

Individuals who are participants or who are eligible for these qualifying programs should get Form TCA EZ1 from the agency that administers the applicable program.

You may claim up to 50% of the qualified wages paid to a qualified employee as a credit against tax imposed on LAMBRA income. The credit is based on the lesser of the actual hourly wage paid or 150% of the minimum hourly wage established by the Industrial Welfare Commission.

The chart below shows the actual percentage of qualified wages paid that may be claimed as a credit.

Period of employment	Credit allowed on qualified wages paid
1st 12 months	50%
2nd 12 months	40%
3rd 12 months	30%
4th 12 months	20%
5th 12 months	10%
After 60 months	0%

The chart below lists the amount of minimum hourly wage, the period it is effective for and the maximum hourly wage allowed for the credit.

Wages paid or incurred during the following time periods:	Minimum wage	150% of the minimum wage
10/1/96 to 2/28/97	$4.75	$7.12
3/1/97 to 8/31/97	$5.00	$7.50
9/1/97 to 2/28/98	$5.15	$7.72
After 2/28/98	$5.75	$8.62

Example 1: On January 1, 1997, you hired a qualified employee who worked 2,080 hours in your LAMBRA business. You paid this qualified employee minimum wage to work at your business. Your hiring credit is computed as follows:

Step 1: 1/1/97 to 2/28/97 - 347 hours x $4.75 = $1,648
Step 2: 3/1/97 to 8/31/97 - 1,040 hours x $5.00 = $5,200
Step 3: 9/1/97 to 12/31/97 - 693 hours x $5.15 = $3,569
Step 4: $1,648 + $5,200 + $3,569 = $10,417
Step 5: $10,417 x 50% (.50) = $5,209
This amount is your total hiring credit.

Example 2: Using the same facts as above, except that the qualified employee is earning $8.00 an hour. Your hiring credit is computed as follows:

Step 1: 1/1/97 to 2/28/97 - 347 hours x $7.12 (not $8.00) = $2,471
Step 2: 3/1/97 to 8/31/97 - 1,040 hours x $7.50 (not $8.00) = $7,800
Step 3: 9/1/97 to 12/31/97 - 693 hours x $7.72 (not $8.00) = $5,350
Step 4: $2,471 + $7,800 + $5,350 = $15,621
Step 5: $15,621 x 50% (.50) = $7,811
This amount is your total hiring credit.

Limitations

- Qualified wages include only those wages paid while the LAMBRA designation is in effect.
- The hiring of a qualified employee must take place after a military base has been officially designated a LAMBRA by the Trade and Commerce Agency.
- At least 90% of the qualified employee's work must be directly related to a trade or business activity located in a LAMBRA.
- At least 50% of the employee's work must be performed inside the boundaries of a LAMBRA.
- Qualified wages paid by the employer, during each qualified year 1 through 5, used to calculate this credit cannot exceed $2 million for each taxable or income year.
- The business must reduce any deduction for wages by the amount of this credit.
- The amount of LAMBRA credits (sales or use tax credit, hiring credit and credit carryovers from earlier years) claimed for any year may not exceed the amount of tax that would be imposed on the income earned solely from your business activities in the LAMBRA.
- If the amount of the credit for employing qualified persons is greater than the tax on LAMBRA income in any year, the excess credit may be carried over to future years.
- In the case where the wage expense qualifies the taxpayer to take the LAMBRA hiring credit as well as any other additional credit, the taxpayer may claim only one credit.
- The credit cannot reduce the minimum franchise tax, alternative minimum tax, built-in gains tax or excess net passive income tax. In addition, the credit may not reduce regular tax below tentative minimum tax.

Credit Recapture

If this credit is allowed for wages paid to a qualified employee who is terminated at any time during the longer of:

- The first 270 days of employment (whether or not consecutive); or
- 90 days of employment plus 270 calendar days,

an addition to tax, equal to the credit allowed, will be due on the return filed for the year during which the employee was terminated. A ''day of employment'' means any day for which the employee receives wage compensation (including a paid sick day, holiday or vacation day).

There will be no credit recapture if the termination was:

- Voluntary on the part of the employee;
- Caused by the employee becoming disabled;
- Due to employee misconduct;
- Due to a substantial reduction in business; or
- Carried out so that other qualified individuals could be hired, creating a net increase in the number of qualified employees and their hours of employment.

Job Creation Required

In addition to the credit recapture and exception rules listed above, if at the close of the second taxable or income year after designation, the taxpayer does not have a net increase of one or more jobs (defined as 2,000 paid hours per employee per year), the amount of the LAMBRA hiring credit previously claimed must be added back to the taxpayer's tax in that second year.

There are no exceptions to this recapture rule.

Record Keeping

If you hire qualified employees and claim this credit on your tax return, keep records including:

- Copies of Form TCA EZ1 for each qualified person hired;
- Records of any other federal or state subsidies you may have received for hiring qualified individuals; and
- An employment history for each qualified employee showing the dates of employment, wages paid, the duties performed and the location of employment.

Sales or Use Tax Credit

LAMBRA businesses may reduce taxes by the amount of sales or use tax paid or incurred on qualified property purchased for exclusive use in a LAMBRA. In any year, individuals may claim a credit equal to the sales or use tax paid or incurred on the first $1 million of qualified property. Corporations may claim a credit equal to the sales or use tax paid or incurred on the first $20 million of qualified property.

To qualify for the credit, the qualified property must be:

- High technology equipment, including, but not limited to, computers and electronic processing equipment;
- Aircraft maintenance equipment, including, but not limited to, engine stands, hydraulic mules, power carts, test equipment, handtools, aircraft start carts and tugs;
- Aircraft components, including, but not limited to, engines, fuel control units, hydraulic pumps, avionics, starts, wheels and tires; or
- Any property that is Section 1245 property, as defined in Internal Revenue Code (IRC) Section 1245(a)(3).

Limitations

- You must use the property **exclusively** within the boundaries of a LAMBRA.
- The amount of LAMBRA credits (sales or use tax credit, hiring credit and credit carryovers from earlier years) claimed for any year may not exceed the amount of tax that would be imposed on the income earned solely from your business activities in the LAMBRA.
- You may not increase the basis of property by the amount of the sales or use tax paid.
- If you purchase machinery manufactured outside of California and claim the credit for the use tax paid, you will be allowed the credit only if machinery of a comparable quality and price was not available for timely purchase and delivery from a California manufacturer.
- In the case where the item of property qualifies the taxpayer to take the LAMBRA sales or use tax credit as well as any other credit, the taxpayer may claim only one credit.
- The credit cannot reduce the minimum franchise tax, alternative minimum tax, built-in gains tax or excess net passive income tax. In addition, the credit may not reduce regular tax below tentative minimum tax.

Example 3: You spend $50,000 to purchase airplane repair equipment. The sales tax paid for the purchase is $3,000. You may reduce the amount of your tax imposed on LAMBRA income by up to $3,000. If you cannot claim the full $3,000 in a single year, you may carry over the remaining amount to reduce next year's tax imposed on LAMBRA income.

Claiming Both Hiring Credit and Sales or Use Tax Credit

Taxpayers who claim both credits available to LAMBRA businesses (the sales or use tax credit and the credit for hiring qualified employees) may not claim a total credit amount that exceeds the tax imposed on LAMBRA income for any one taxable or income year. However, credits that exceed this amount may be carried over to offset tax imposed on LAMBRA income in subsequent years.

Credit Carryover

If the amount of sales or use tax credit is greater than the tax on LAMBRA income in any year, the excess credit can be carried over to future years to offset LAMBRA tax.

Credit Recapture

- The full amount of the credit must be recaptured (added back to tax) if the qualified property is disposed of or is no longer used in the LAMBRA before the close of the first two taxable or income years beginning after the property was first placed into service.
- In addition, if at the close of the second taxable or income year after designation, the taxpayer does not have a net increase of one or more jobs, (defined as 2,000 paid hours per employee per year) the amount of the credit previously claimed must be added back to the taxpayer's tax for the taxpayer's second taxable year.

Record Keeping

To support the sales or use tax credit claimed on your tax return, you must keep records that identify or describe the property purchased, the amount of sales or use tax paid on its purchase and the location where it is used. If you purchase machinery manufactured outside of California, you should be able to substantiate attempts to purchase comparable items within California.

Business Expense Deduction

The cost of qualified property purchased for exclusive use in a LAMBRA may be deducted as a business expense in the first year it is placed in service.

The type of property that qualifies for this special treatment is tangible personal property (not real estate) that is used for business purposes and is eligible for depreciation. This includes most equipment and furnishings purchased for exclusive use in a LAMBRA, but not office supplies or other small items that are normally ineligible for depreciation.

The maximum aggregate deduction the business may claim in any taxable or income year is determined by the number of years that have elapsed since the LAMBRA received final designation. For the income year of designation and the first income year after the year of designation, the aggregate deduction for each income year shall not exceed $5,000. For the second and third income year after the year of designation, the aggregate deduction for each income year shall not exceed $7,500. See Page 4 for designation dates.

The election to treat the cost of qualified property as a business expense must be made on a timely filed tax return in the year the property is first placed in service. However, this election is not allowed if the property was:

- Transferred between members of an affiliated group;
- Acquired as a gift or inherited;
- Traded or exchanged for other property;
- Received from a personal or business relation as defined in IRC Section 267 or 707(b);
- Described in IRC Section 168(f); or
- Purchased by an estate or trust.

Depreciation

- Depreciation of the property in excess of the amount deducted may be claimed using any method of depreciation normally allowed.
- The deduction allowed under IRC Section 179, relating to an election to expense certain depreciable business assets cannot be claimed if the taxpayer elects the business expense deduction.
- Corporations may not claim additional first-year depreciation under R&TC Section 24356 for these assets.

Example 4: Three months after the location where you do business has been designated a LAMBRA, you purchase a baking oven that costs $20,000. You depreciate the oven over a 10-year period using the straight-line method. The LAMBRA business expense deduction you may claim is $5,000. You may also claim the normal $125 of depreciation that is allowed for each month the oven was in service during the year.

($20,000 - $5,000) ÷ 120 months = $125 per month

Deduction Recapture

- The full amount of the deduction must be included in income if the property is no longer used in a LAMBRA before the close of the first two taxable or income years beginning after the property was first placed in service.
- In addition, if at the close of the second year, the taxpayer does not have a net increase of one or more jobs (defined as 2,000 paid hours per employee per year), the amount of the business expense deduction previously claimed must be added back to the taxpayer's income for the taxpayer's second taxable year.

Record Keeping

You should maintain information that will allow you to substantiate your claim for the first-year business expense deduction. The records for each item should show:

- The identity and purchase price;
- The date on which the property was first placed in service in a LAMBRA; and
- The location where the property is used.

Net Operating Loss Carryover

Net operating losses (NOLs) of individuals or corporations doing business in a LAMBRA may be carried over to future years to reduce the amount of taxable LAMBRA income for those years. The NOL carryover is determined by computing the business loss that results strictly from business activity in a LAMBRA.

Election

If you qualify to claim more than one type of NOL, you must make an irrevocable election as to which type of NOL you claim. This election must be made on the original return for the year of the loss and be filed by the original or extended due date of the return.

For more information regarding the other types of NOLs, see the following forms or worksheets:

- FTB 3805V, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Individuals, Estates and Trusts;
- FTB 3805Q, Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations – Corporations;
- FTB 3805Z, Enterprise Zone Business Booklet, Worksheet VI; and
- FTB 3806, Los Angeles Revitalization Zone Booklet, Worksheet VI.

Limitations

- LAMBRA NOL carryovers are allowed only for losses occurring in a year beginning on or after the date the area is designated as a LAMBRA.
- Financial institutions using bad debt reserve methods may carry forward the LAMBRA NOL for only five years.
- A LAMBRA NOL may not be applied to years prior to the year in which the LAMBRA NOL occurred (no carrybacks).

Example 5: For your 1997 income year, the activities in the LAMBRA show a $5,000 NOL that is the exclusive result of your LAMBRA activity. Because of the loss, you owe no tax on LAMBRA income. In 1998, your business shows a profit of $8,000. You may carry over the 1997 $5,000 NOL to reduce your LAMBRA taxable income for 1998 to $3,000.

Record Keeping

To support your claim of an NOL carryover on your California tax return, you should maintain:

- Records showing the status date your business activities began in a LAMBRA;
- Accounting records showing that the loss was the result of business activity in a LAMBRA; and
- Financial data indicating that the income offset by the carryover is the product of business activity in a LAMBRA.

Determination of LAMBRA Income or LAMBRA Tax

For businesses operating within and outside a LAMBRA, the amount of credit and NOL deduction you may claim on your California tax return is limited by the amount of tax or income attributable to a LAMBRA. The formula used to determine the amount of tax or income attributable to a LAMBRA is a formula based on the total property and payroll of the business located in a LAMBRA compared to the total property and payroll of the business everywhere.

An example of a business doing business within and outside of a LAMBRA:

Example 6: You have a factory located in a LAMBRA and you also have a factory located outside a LAMBRA. In this situation, you would be required to use the formula.

If you are doing business within and outside a LAMBRA, or in more than one LAMBRA, get FTB 3807, Local Agency Military Base Recovery Area Booklet. Refer to Part IV, Doing Business Totally Within, Within and Outside a LAMBRA or in More than One LAMBRA.

Qualified Taxpayer Defined

For LAMBRA, a qualified taxpayer means a taxpayer or partnership that conducts a trade or business within a LAMBRA and, for the first two taxable or income years, has a net increase in jobs (defined as 2,000 paid hours per employee per year) of one or more employees in the LAMBRA determined as follows.

Determining the Yearly Net Increase in Jobs

To determine the yearly net increase in jobs, subtract the total number of full-time employees (defined as 2,000 paid hours per employee per year) employed by the taxpayer in California during the taxable or income year prior to starting business operations in the LAMBRA from the total number of full-time employees the taxpayer employed in California during the second taxable or income year after starting business operations in the LAMBRA.

The total number of employees employed in the LAMBRA equals the sum of:

$$\frac{\text{Total number of hours worked in the LAMBRA by hourly wage employees*}}{2000}$$

Plus

$$\frac{\text{Total number of months worked in the LAMBRA by salaried employees**}}{12}$$

**   Not to exceed 2000 hours for any one employee.*
*** Not to exceed 12 months for any one employee.*

Example 7: Z Corp. employs four individuals prior to establishing operations in the LAMBRA.

Employee #1 is salaried and employed for 12 months.
Employee #2 is full-time and works 2080 hours a year.
Employees #3 and #4 are part-time and each work 1500 hours a year.

Total employees employed at the beginning of operations in the LAMBRA equals:

Number of hours for hourly wage employees / 2000	Employee #2 - 2000* Employee #3 - 1500 Employee #4 - 1500	$\frac{5000}{2000} = 2.50$
PLUS		
Number of months for salaried employees / 12	Employee #1 - $\frac{12}{12}$	$= 1.00$
Total employees, beginning		3.50

** Not to exceed 2000 hours for any one employee.*

At the end of the second year of operation in the LAMBRA, the taxpayer employed five individuals:

Employee #1 is salaried and employed for 36 months.
Employee #2 is full-time and works 2080 hours per year.
Employees #3, #4 and #5 are part-time and work 1700 hours per year.

Total employees employed in the LAMBRA at the end of the second year of operations in the LAMBRA equals:

Employee #2 - 2000*
Employee #3 - 1700
Employee #4 - 1700
Employee #5 - 1700

$$\frac{\text{Number of hours for hourly wage employees}}{2000} \qquad \frac{7100}{2000} = 3.55$$

PLUS

$$\frac{\text{Number of months for salaried employees}}{12} \qquad \text{Employee \#1 - } \frac{12^{**}}{12} = 1.00$$

Total employees, ending 4.55

Total employees, beginning	3.50
Total employees, ending	4.55
Net increase	1.05

Taxpayer is operating a qualified business.

** Not to exceed 2000 hours for any one employee.*
*** Not to exceed 12 months for any one employee.*

New Businesses

For taxpayers who begin doing business in California with their LAMBRA operation, the number of employees from the taxable or income year prior to starting business operations in the LAMBRA is zero.

For taxpayers whose business began during the taxable or income year, the prior year employment information is prorated and the formula shown previously is modified by multiplying the denominators (2,000 and 12) by a fraction equal to the number of months the taxpayer was doing business in the LAMBRA over 12.

Example 8: Y Corp. is a calendar year taxpayer who employed four individuals prior to establishing operations in a LAMBRA on July 1, 1997.

Employee #1 was salaried and employed for 6 months. Employee #2 was part-time and worked 900 hours. Employees #3 and #4 were part-time and worked 750 hours.

Total employees employed at the beginning of operations in the LAMBRA equals:

Employee #2 - 900
Employee #3 - 750
Employee #4 - 750

$$\frac{\text{Number of hours for hourly wage employees}}{2000 \times (6 \text{ mos.}/12)} \qquad \frac{2400}{1000} = 2.40$$

PLUS

$$\frac{\text{Number of months for salaried employees}}{12 \times (6 \text{ mos.}/12)} \qquad \text{Employee \#1 - } \frac{6}{6} = 1.00$$

Total employees, beginning 3.40

LAMBRA Locations and Designation Dates

LAMBRA tax incentives apply only to business activities and investments that are undertaken after a LAMBRA has received final designation.

LAMBRA	Designation Date
Southern California International Airport (formerly George Air Force Base)	February 1, 1996
Castle Airport (formerly Castle Air Force Base)	June 1, 1996
Mare Island Naval Shipyard	Conditional
Alameda Naval Air Station	Conditional
Tustin Marine Corps Air Station	Conditional

Related FTB Forms and Publications

FTB 3805Z	Enterprise Zone Business Booklet
FTB 3806	Los Angeles Revitalization Zone Booklet
FTB 3807	Local Agency Military Base Recovery Area Booklet
FTB 3535	Manufacturers' Investment Credit
FTB Pub. 1047	Guidelines for Enterprise Zone Incentives
FTB 1113	Frequently Asked Questions About the Manufacturers' Investment Credit (MIC)
FTB 1118	Frequently Asked Questions About Local Agency Military Base Recovery Area (LAMBRA) Incentives
FTB 1126	Frequently Asked Questions About Enterprise Zone Incentives

Where to Get FTB Forms and Publications

By Internet – If you have Internet access, you may download, view and print California tax forms and publications. Our Internet address is:

http://www.ftb.ca.gov

By phone – Use **F**ast **A**nswers about **S**tate **T**axes, the F.A.S.T. toll-free phone service to order FTB 3805Z, Enterprise Zone Business Booklet . Call 1-800-338-0505, select personal income tax forms requests and enter code **901** when you are instructed to do so. Use the general telephone service to order all other forms and publications listed above.

Economic Development Area Information

Further information about LAMBRA tax incentives is available from:

FRANCHISE TAX BOARD
ECONOMIC DEVELOPMENT AREA INFORMATION
Telephone: 916-845-3464

General Toll-Free Phone Service

Our general toll-free telephone service is available Monday through Friday, from 8 a.m. until 5 p.m.

From within the United States 1-800-852-5711
From outside the United States . . . . . . 1-916-845-6500 (not toll-free)
For hearing impaired with TDD 1-800-822-6268
For federal tax questions, call the IRS at 1-800-829-1040

Asistencia Bilingüe en Español

Para obtener servicios en Español y asistencia para completar su declaración de impuestos/formularios, llame al número de teléfono (anotado arriba) que le corresponde.